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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 STEPHEN J. TUTTLE, et al.,

11 Plaintiffs,

12 v.

13 AUDIOPHILE MUSIC DIRECT
14 INC., et al.,

15 Defendants.

CASE NO. C22-1081JLR

ORDER

16 Before the court are (1) Plaintiffs' unopposed motion for preliminary approval of
17 the class action settlement in this matter (PA Mot. (Dkt. # 17); *see also* Turner Decl.
18 (Dkt. # 18), Ex. 1 ("Settlement Agreement")) and (2) the parties' stipulated motion for an
19 order staying this case pending the court's consideration of Plaintiffs' motion for

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1 preliminary approval (Stay Mot. (Dkt. # 20)). The court has identified the following
2 issues that must be corrected before it can preliminarily approve the settlement:¹

3 1. Paragraph 4.26 of the Settlement Agreement defines a “Qualifying
4 Settlement Claim Certification Form” as “a Settlement Claim Certification Form that is
5 completed, properly executed, and timely returned to the Settlement Administrator within
6 **one-hundred and twenty (180)** days from the date of publication of Class Notice.”
7 (Settlement Agreement ¶ 4.26 (emphasis added).) The parties shall clarify whether the
8 deadline for returning the Settlement Claim Certification Form is 120 or 180 days from
9 publication of notice.

10 2. The case number in the Proposed Order Granting Preliminary Approval of
11 the Proposed Class Settlement is incorrect, and the deadlines highlighted on page 3 of
12 that proposed order are not consistent with the dates proposed in Plaintiffs’ motion. (*See*
13 Settlement Agreement, Ex. B at 1; *compare id.* at 3 with PA Mot. at 23.)

14 3. The case number in the Full Notice attached to the Settlement Agreement is
15 incorrect. (*See* Settlement Agreement, Ex. D, at 1 (“Full Notice”).) The parties shall
16 correct the case number in the Full Notice.

17 4. The process for a Class Member to return an Applicable Record for a
18 refund is unclear. (*See* Full Notice ¶ 7.) For example, what happens after a Class
19 Member submits a Settlement Claim Certification Form? Will the Class Member receive
20 an acknowledgement from the Claims Administrator that his or her Settlement Claim

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22 ¹ Capitalized terms used in this order are defined in Section 4 of the Settlement
Agreement. (*See* Settlement Agreement ¶¶ 4.1-4.32.)

1 Certification Form has been accepted as a Qualifying Settlement Claim Certification
2 Form? Will Class Members who seek a full refund receive instructions for returning their
3 Applicable Records, including a deadline for completing that return? Are Class Members
4 expected to return their Applicable Records before final approval of the class action
5 settlement to receive a refund? In addition, the instructions in the second paragraph of
6 Paragraph 7 of the Full Notice are unreasonably dense and difficult to parse. The parties
7 shall clarify in the Full Notice the process a Class Member must follow to receive
8 settlement relief.

9 5. The Proposed Order Granting Final Approval of Settlement is inadequate
10 for the court's purposes and includes an incorrect case number. (*See* Settlement
11 Agreement, Ex. E ("Proposed Final Approval Order").) The parties shall provide a
12 revised proposed order that includes the findings required by Federal Rule of Civil
13 Procedure 23(e)(2).

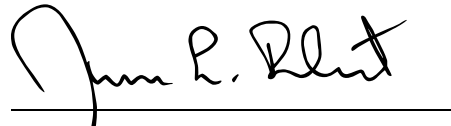
14 6. The Proposed Judgment includes an incorrect case number. (*See*
15 Settlement Agreement, Ex. F ("Proposed Judgment").) In addition, the attorneys' fees
16 and class representative service awards included in the judgment are inconsistent with the
17 amounts in the Settlement Agreement. (*Compare* Proposed Judgment ¶ 14 *with*
18 Settlement Agreement ¶ 5.7.) The parties shall provide a revised proposed judgment that
19 includes the correct case number, attorneys' fees, and service awards.

20 For the foregoing reasons, the court DENIES Plaintiffs' unopposed motion for
21 preliminary approval of the class action settlement (Dkt. # 17) without prejudice.
22 Plaintiffs may submit revised materials with a renewed motion for preliminary approval.

1 The court is concerned, however, that there may be further errors in the settlement
2 materials that are not identified above. Accordingly, the court ADMONISHES the
3 parties to review all of their materials carefully and thoroughly for consistency, clarity,
4 accuracy, and conformity with the Federal Rules of Civil Procedure before resubmitting
5 them to the court.

6 Finally, the court GRANTS the parties' stipulated motion to stay the case pending
7 the court's consideration of the motion for preliminary approval (Dkt. # 20). The parties
8 are ORDERED to file either revised preliminary approval materials or a joint statement
9 regarding the status of their revisions to the preliminary approval materials by no later
10 than **January 31, 2023**.

11 Dated this 20th day of January, 2023.

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14 JAMES L. ROBART
15 United States District Judge
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